

# MEMORIAL

Sent from

L O N D O N

By the Late

Earl *STANHOPE*,

T O T H E

Abbot *VERTOT*

A T

*P A R I S.*

Containing the following QUESTIONS, relating  
to the Constitution of the *Roman Senate*, (*viz.*)

- I. What was the Ordinary Regular Method of Admission into the Senate, in the Four or Five first Ages of the Commonwealth?
- II. Why the Senate consisting then of none but Patricians, we read of some Patricians that were Senators, while others were only Private Men, and did not partake of that Dignity? And whether this Distinction came by Succession and Primogeniture: Or whether the Choice of the Candidates lay wholly in the Consuls, and afterwards in the Censors?
- III. For what Reason, after the Second *Punic War*, a Director was named on Purpose to fill up the Vacancies in the Senate; from whence one might infer, that the *Romans* had no common and regular Way of supplying those Vacancies, since they had recourse to the extraordinary Power of a Dictator?

With the Abbot *Vertot's* ANSWER.

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L O N D O N :

Printed for W. TAYLOR, at the Ship in *Pater-Noster-Row*;  
J. PEMBERTON, at the Buck in *Fleetstreet*; and  
E. SYMON, in *Cornhill*. MDCG XXI.

# MEMORIAL

L O N D O N

By the

TO THE

Abbot NEWSTOT

Containing the following questions, relating to the Constitution of the Roman Senate (viz.)

I. What was the Ordinary Regular Method of Admission into the Senate, in the four or five last Ages of the Commonwealth?

II. Why the Senate consisting then of none but Patricians, and we read of some Patricians that were Senators, while others were only Privileged, and did not partake of that Privilege? And whether this distinction came by Succession, or by some other means: Or whether the Order of the Candidates, or wholly made a choice, and afterwards in the Senate?

III. How long, before the Senate, after the death of a Senator, was it usual to fill up the Vacancies in the Senate, from which Vacancies might arise, that the Government might be continued, and the State of the Republic preserved, and the Senate be able to transact the business of the State?

With the Answer

L O N D O N

Printed by W. Taylor at the New Bath, in the Strand, and at the Sign of the Crown, in St. Dunstons Church, in the Strand, MDCCLXXI.





A  
MEMORIAL

Sent from LONDON to the

Abbot *De Vertot* at *Paris*,

By the late

Earl *STANHOPE*,

Principal Secretary of State.



Onsieur the Abbot *de Vertot* is desired to communicate to some Persons, whom his History of the *Roman Revolutions* have render'd curious in every Thing relating to the ancient Government of that Republick, his Thoughts upon a Point which

seems not sufficiently cleared up by those Moderns that have treated of the *Roman Constitution*.

The Question is, What was the ordinary and regular Method of Admission into the Senate, in the Four or Five First Ages of the Commonwealth?

It is certain, that in the remotest Times of that State, the Dignity of Consul, and perhaps afterwards even that of *Prætor*, or others, gave those who had been invested with them, the Right of sitting in the Senate during Life.

We are sensible, that in the first Ages there were none but *Patricians* in the Senate: But we would fain know exactly by what Rule, or by what Authority some *Patricians* were Senators, while a great many other *Patricians* did not partake of that Honour. Was it from any Right of Succession, or Primogeniture? Or had the *Censors*, and before the Establishment of that Magistracy, the *Consuls*, the Prerogative of nominating such *Patricians* as they pleased, to fill the Places which became vacant in the Senate?

We find, that after the Second *Punick War*, a *Dictator* was created to fill up the Senate, which was very much exhausted: But this Fact, instead of resolving our Doubts in this Particular, only increases them; for we might from thence infer, that the *Romans* had no common and regular Method of supplying



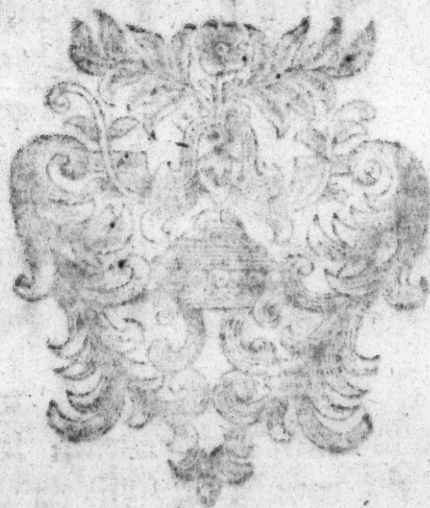
plying the Vacancies in the Senate, since they had Recourse to the extraordinary Power of a *Dictator*.

If any Man in this Age is capable, not only of resolving these Doubts, but also of giving the Publick just Notions in every Thing relating to the Rights and Prerogatives of the Senate, and the *Patrician* Order, it must be the learned and polite Author of the *Roman* *Revolutions*.



T H E

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 Revolution.



THE



PARIS, Decemb. 1. 1719.

THE  
ANSWER  
TO THE  
MEMORIAL.

**I** Am desired to give my Opinion upon divers Questions relating to the Constitution of the *Roman* Senate ; and a *Frenchman* is applied to for the Resolution of those Difficulties, tho' they were started in a Nation which still retains some Footsteps of the ancient Government of the First *Romans* ; and which, consequently, ought to be better acquainted therewith. And besides, Who can have a more compleat

pleat Knowledge both of the Civil and Military Discipline of those famous Republicans than the Learned and Able Minister, and at the same time, the Great Captain that does me the Honour to propose these Questions to me; He who might have been the supreme Judge of them in the Time of *Varro* and *Tully* themselves?

In the *Memorial* sent to me, the first Question is, What was the ordinary and regular Method of Admission into the Senate in the Four or Five first Ages of the Commonwealth?

*Secondly*, Why, the Senate consisting then of none but *Patricians*, we read of some *Patricians* that were Senators, while others were only private Men, and did not partake of that Dignity? And whether this Distinction came by Succession and Primogeniture, or whether the Choice of the Candidates lay wholly in the Consuls, and afterwards in the Censors?

*Lastly*, for what Reason, after the Second *Punic* War, a Dictator was named on Purpose to fill up the Vacancies in the Senate; from whence one might infer, that the *Romans* had no common and regular Way of supplying those Vacancies, since they had Recourse to the extraordinary Power of a Dictator?

Tho' the Author of the *Memorial* places his Doubts in the Four or Five first Ages of the Com-



Commonwealth, they do not seem to us to reach so far; but they can hardly be cleared up, without going back to the very Foundation of *Rome*, and the first Establishment of the Senate.

*Rome*, like most other States, did more than once change the Form of her Government. At first, as every body knows, she was govern'd by Kings. The Consuls succeeded those Princes, tho' with a limited Authority. And afterwards, about the 311th Year of *Rome*, the Censorship was created, and was a Limb cut off from the Consulate: And it is to these Three Epocha's, that we shall refer all that concerns the Creation of the first Senators, and the Nomination of their Successors.

If we will believe the greater Number of Historians, it was first the King, and afterwards the Consuls and Censors, that disposed of the vacant Places in the Senate. According to other Authors, the People's Votes were necessary in this Promotion; and which adds to the Perplexity, this Diversity of Opinion is found not only in different Historians, but oftentimes the same Writer seems to contradict himself in different Parts of his Work. This is apt to breed a kind of Pyrrhonism, which is not easily thrown off, unless we are particularly attentive to the several Points of Time. There is no way but by taking a View of the different Epocha's of the Government, to form a just Notion of the se-

veral Methods by which at several Times a Roman Citizen, whether Knight or Plebeian, attained the Dignity of Senator.

*Romulus*, says *Livy*, finding his State did not want Forces, was resolved to establish a Council that might direct their Operations, and to be in a manner the Basis of the Constitution, and the Pole upon which the whole Government should turn. In this View, he created a Hundred Senators, *quum, jam*.  
*L. 1. Dec. 1. virium haud poeniteret, consilium*  
*deinde viribus parat, centum creat*  
*Senatores*. So that according to that Historian, it was the first King of Rome that created the Senate. *Plutarch*, in that Prince's Life, ascribes the Establishment of that Society to him in the same manner. *Dionysius Halicarnassensis* at first does not seem averse to the Opinion of those Two Historians. *Romulus*, says he, in his Second Book, resolved to form the Council of a Hundred Senators, to share with him in the Cares of the Administration. But he adds afterwards, that the Prince only named the first Senator, who, in his Absence, was to preside in the Senate, and command in the City; that he order'd the Three Tribes, whereof the State then consisted, to chuse each of them Three Senators; and that by vertue of a second Command of the same Prince, the Thirty *Curiae*, which made up those Three Tribes, named each Three more; which, with the Senator  
 named



named by the King, made just a Hundred Senators. We see 'tis the King alone that forms the Design of creating a Senate; it is he that names the President or Prince of that Body of his own Authority; and tho' the Tribes and *Curia* elect the other Ninety nine Senators, it is only in Consequence of the express Order and Command of *Romulus*.

We find the same Opinion again in another Part of the same Book; and when *Romulus* and *Tatius* the *Sabin* added a Hundred new *Patricians* to the Senate, the Choice of those Senators, according to that Historian, was left wholly to the *Curia*, and to the Majority of Voices. That Writer does, indeed, add, that after the Election, it was the Two Princes, the *Roman* and the *Sabin*, that admitted those new Magistrates into the Senate; which shews, notwithstanding *Dionysius's* Prejudice, that let there be what Election there would, it was the Authority of the Sovereigns that made it valid; much as it is in *England*, where the Bills propos'd by the *House of Commons*, and approved by the *Lords*, do not yet acquire the Force of Laws till they have the Consent of the Prince. And accordingly we are to observe, that when any Historian of that Nation ascribes to any of their Kings the Establishment of a Law, we are always to take it for granted, that the Parliament's Consent was first had.

But to return to our Subject : We may observe that *Livy*, in all his Accounts of the Reigns of the *Roman* Kings, appears a thorow Royalist, if we may use the Expression. *Dionysius Halicarnassens*, on the contrary, a Republican, under the very Royalty it self, does in many Parts of his History, make the Kings of *Rome* merely the Heads of the Senate. If we consult the *Latin* Historian for the Manner in which the principal Men of the Town of *Alba*, after its Destruction, were admitted into the Senate, it was the King, according to that Author, *Tullus Hostilius*, that open'd them the Gates ; *Principes Albanorum*, ( says he ) *in patres, ut ea quoque pars Reipublicæ cresceret, legit* ; and he set apart a Temple to serve as a Palace or Place of Assembly for that Body, which he had now augmented, *templumque ordini ab se aucto curiam fecit.*

If on the contrary, we cast our Eyes upon the *Greek* Historian, we shall find that the King assembles the Senate, gathers their Suffrages ; and that there the Resolution is taken of demolishing the City of *Alba*, removing the Inhabitants to *Rome*, and admitting Seven of the principal Families into the Senate : All this is determin'd in a Publick Deliberation, wherein the Prince seems to have had no more than his single Voice like the rest. *The Romans have decreed it*, says that Prince, speaking to the *Albans*, to inform them of what had been  
agreed



agreed upon touching the Destruction of their City.

*Livy* never varies from his Character all through his Account of the Government of the Kings. Those Princes determine absolutely concerning every Thing that relates to the Senate. When *Tarquin* the Ancient, contrary to Custom, brings into it a Hundred *Plebeians*; the *Latin* Historian tells us directly, that this Innovation was the Prince's own doing; and that those Hundred *Plebeians* were admitted into the Senate only by his Favour; *centum in patres legit, qui deinde minorum gentium sunt appellati*: And he adds, *factio haud dubia Regis, cujus beneficio in curiam venerant*.

The same Historian, after having related the ill Designs of *Tarquin* the Proud, the Grandson of the Prince just mention'd, and all the Engines he set at work to usurp the Crown, which was then upon the Head of *Servilius Tullus*, says expressly, that he endeavour'd to gain over those new Senators, which *Tarquin* the Ancient, his Grandfather, had admitted into the Senate; and that to draw them to his Side, he put them in Mind, that they held their Dignities wholly of his Family; and that now they ought to shew him their Acknowledgement; *admonere paterni beneficii & pro eo gratiam repetere*: An Acknowledgment which he would have had no Title to expect, if their Admission into the Senate  
had

had depended upon the Voices of the Multitude ; and *Tarquin* the Ancient had had only his single Vote in that Election, like the rest of the Senators.

That Prince, or to speak more truly, that Tyrant, after having possessed himself of the Throne, in the Manner which every body knows ; put to death, or banished such Senators, as he was apprehensive of either upon account of their Power or Wealth : And he would not fill up their Places, says *Livy*, to the Intent that the Society might fall into Contempt by their Fewness ; *numero immunito*, says he, *statuit nullos in patres legere, quo contemptior paucitate ipsa ordo esset* : So that the Nomination of the Senators appears, by him, to have lain in the Prince. *Dionysius Halicarnassensis* does indeed differ here from *Livy* ; for after relating the same Fact, and the Death or Banishment of a great many Senators, he says directly, that *Tarquin* did fill their Places with his own Creatures, and in a Manner made a new Senate. But notwithstanding the Contrariety of the Facts, nothing appears in either of them in Derogation of the Right and Prerogative of Kings : And whether *Tarquin* would not substitute other Senators in the Room of those he had slain or exiled, as *Livy* relates it ; or whether he supplied their Places with his Adherents, as *Dionysius Halicarnassensis* tells us : Still in both Historians mention is made of the Prince's Authority only ;  
and



and that is all we wanted, as to the Nomination of the Senators.

Lastly, *Livy* confirms his Opinion in the Speech, which he puts into the Mouth of a certain Tribune of the People, named *Canuleius*, who was for revoking one of the Laws of the Twelve Tables, which forbid all Alliance between the Patricians and the Plebeians. That Tribune upbraids the former with being descended most of them from *Albans* or *Sabins*: You do not owe your Nobility, says he, to your Origin; but to your Ancestors having been admitted into the Senate, either by the Choice of our Kings, or by the Will and Pleasure of the People, since their Expulsion; *aut ab Regibus lecti, aut post Reges exactos, jussu populi.*

That Tribune, or the Historian that speaks for him, distinguishes Two Aeras, and Two different Methods of Election. He says, that during the Reigns of the Kings, those Princes disposed of the Places in the Senate, *aut ab Regibus lecti*, and at the same Time he maintains, that after the Expulsion of the Kings, that Right devolved to the People: But this last Proposition is not without great Difficulties, as we shall shew.

We are now come to the Establishment of the Commonwealth, which the Author of the *Memorial* makes the Date and Beginning of his Doubts: The Question is, says he, *What was then the common and regular Method of*

*Admission into the Senate?* If we will believe *Livy*, in the Passage above quoted, the Suffrages of the People determined it, *jussu populi*. *Cicero*, so well read in the Laws and Usages of his own Countrey, declares himself of the same Opinion: 'Twas, says he, the whole Body of the People that made Choice of those who shou'd sit in that supreme Council, *deligerentur in id Consilium ab universo populo*. Here indeed we have the Right of this

Orat. pro Sex-  
tio.

Election ascribed wholly to the People, by the Testimony of the Two most celebrated Writers in the Republick; but unluckily the Facts and Examples are directly contrary to this Notion; and what is most singular, *Livy* himself furnishes us with most of those Examples, without saying any Thing to lessen the Credit of the Facts, and without so much as mentioning the Rights of the People.

We read in that Historian, that after the Expulsion of the Kings, and *Callatinus's* Abdication of the Consulship, *Brutus* then sole Consul, finding the Senate considerably diminished by *Tarquin's* Cruelties, fill'd it with new Members, and increased the Number of the Fathers to Three Hundred; which we are told he chose out of the Order of Knights. So that we see it was none of the People that named the Senators in the first Age of the Commonwealth. Here is the first Consul that ever the *Romans* had; and then without  
a Col-



a Collegue, exercising this Power without Opposition or Contradiction : *Cadibus*, says *Livy*, *diminutum Patrum numerum ad trecentorum summam explevit*. We are now left to reconcile this Passage in *Livy's* first Book, with the Speech of *Canuleius* the Tribune, which we find in the Fourth of the first Decad.

*Dionysius Halicarnasseus*, who almost constantly relates the same Facts, but with different Circumstances, says, that even at the Time of this Promotion, *Valerius* was *Brutus's* Collegue; and he adds, that those Two Consuls took the new Senators out of the Body of the People, *præcipuos ex plebe allegerunt*. *Plutarch* has the same Fact in a Third Manner; he affirms, that *Valerius* was then sole Consul; and that for fear his future Colleague might hinder him in the Execution of the Design he had laid, he made haste to name the Senators that shou'd fill the vacant Places in the Senate: But tho' these Three Historians differ in the Circumstances of the Fact, we find nothing in them in favour of the Rights of the People. The Consul is still the Person that makes the Nomination; and as to the main of the Question, it is indifferent whether that Consul's Name is *Brutus* or *Valerius*.

It is very probable that the Consuls, who succeeded the Kings in the Sovereign Power, *Regio imperio duo sunt*, who had all the Ensigns of it, the Lictors, the Robe bordered

with Purple, the Curule Chair, and the Sceptre or Staff of Ivory; that those great Magistrates, I say, the Heads of the Senate, and rightful Generals of the Armies, and who, indeed, differed from the Kings in nothing, but that their Authority was divided, and only annual, succeeded to the Right those Princes enjoy'd, of supplying the Vacancies in the Senate.

But these Consuls being afterwards too much taken up with Wars Abroad, which often kept them from *Rome*; the Right of nominating the Senators fell from the Consuls to the Censors, a new Magistracy created the 311th Year of *Rome*, only Sixty Six Years after the Establishment of the Commonwealth.

We are told, that these new Magistrates were at first set up only for taking the Number of the *Roman* People, which was then called the *Census*, a Custom instituted by King *Servilius Tullius*. But as Authority naturally seeks to enlarge it self, the *Censors* by Degrees got to themselves the Reformation of the Three Orders of the Commonwealth, and afterwards they engrossed the Right of nominating the Senators, and even of expelling from the Senate, such as they thought unworthy of their Seats; of taking away the Horse and Gold Ring from such Knights as had not done their Duty, and of degrading into the lower Tribes, such of the People who led irregular Lives.



Lives. History is full of Instances of this Authority in the *Censors*, who by a wholesome Terror, restrained the several Orders of the State within the Bounds of their Duty. We shall not enter farther into the various Functions of this great Office, which was looked upon among the *Romans*, as the Pinnacle of all the Honours a Citizen cou'd arrive at: But keep to the Question proposed. It appears then to me, by all that I can find in the Historians of that Nation, that the *Censors* succeeded the Consuls in the Nomination of the Senators, as the Consuls before succeeded the Kings in the same Prerogative: But whether those Princes, or those Magistrates, made that Nomination without the Concurrence of the People; or whether the People themselves elected the Senators, as they did their other Magistrates, is what we shall be better able to judge of, by what we are going to produce, in order to reconcile Two Opinions that seem so opposite.

*Paulus Manutius* pretends, that the Kings, the Consuls, and the Censors, had indeed the Right of proposing to the Assembly of the People, such as they thought worthy to fill the Vacancies in the Senate, but that the Choice between those Candidates lay in the People, whose Votes were however confined to those whom their Magistrates had proposed to them; a Conjecture so much the weaker, as it is upheld by no one Proof: Unless we

will allow the Republick's Custom, of admitting no Magistrate but by the way of Election, to be a Proof. Not but that the People may in some manner be said to have opened the Gates of the Senate to those who were raised to the *Curule* Magistracies by their Voices; because those great Dignities not only gave a Seat in the Senate to those who enjoyed this during the Year, but they also still retained it, even after their Office was expired; and the *Censors*, when they filled the vacant Places in the Senate, were obliged to inscribe them first, and each according to his Rank in the Roll of the Senators. And perhaps it may be of this particular Part of the People's Privilege, that we are to understand what *Cauleius* and *Cicero* have left us, in Terms too general, of the People's Power in the Nomination of the Senators.

Thus the Dictator, *M. Fabius Buteo*, in the Second *Punic* War, in an extraordinary Emergency, when he was obliged to perform the Function of *Censor*, after having called the ancient Senators each by Name, did appoint to supply the Places of the Dead, first, says *Livy*, such as since the Censorship of *L. Æmilius*, and *C. Flaminius*, had held any *Curule* Dignity, and had not yet been inserted in the Roll of Senators, though their Offices gave them Admission into the Senate: *Recitato veterē Senatu, inde primum in mortuorum locum legit qui post L. Æmilium & C. Flaminium Censores,*



*fores, Curulem magistratum cœpissent, nec diu in senatum lecti essent, &c.*

But from this very Example, says the Author of the Memorial, and from the Censorship of a *Dictator*, we may infer that the Romans had no common and regular Method of supplying the Vacancies in the Senate, since they had Recourse to the extraordinary Power of a *Dictator*.

We may answer, that on the contrary, this Example being extraordinary and singular, is the very Reason why nothing can be inferred from it, against the Power of the *Censors* alone to name the Senators. Can any Man affirm with the least Foundation, that it was not a common and regular Custom in the Republick, to chuse the Tribunes of the People only out of the Body of the *Plebeians*, because upon one single Occasion, under the Consulship of *L. Valerius*, and *M. Horatius*, we find in the Tribuneship *Sp. Tarpeius*, and *A. Haterius*, both *Patricians*, old Senators, and even Consuls, whom the Senate had politickly got into that Office, to cross the ill Designs of the other Tribunes, *duos etiam patricios*, says *Livy*, *Consularesque, Sp. Tarpeium & Aulum Haterium cooptavere?*

Dec. I. l. 3.  
c. 65.

It is certain there is no State so strongly attached to its Form of Government, but in some certain Conjunctions, it is forced to bear with several Alterations. Such was then the Case with the Roman Commonwealth; Four great  
Defeats

Defeats receiv'd from the *Carthaginians*, had exhausted the best of her Blood. They particularly, says *Livy*, bewailed the Loss of Eighty Citizens, part Senators, part such as had enjoyed Offices, after the Expiration of which in the next Census, they were to have been inscribed in the Number of Senators. The State wanted Soldiers; they had been obliged to List their very Slaves; and *Hannibal* was at the Gates of *Rome*. The few Senators that remained, oppressed with the Weight of all Affairs, call'd for a Supply of Collegues in the room of those Senators that fell in this fierce War. It is probable the Two last Censors, *L. Æmilius*, and *C. Flaminius*, had either been slain in those bloody Engagements, or were out of their Office. No Expedient was left to supply the want of Censors, but in the Person of *M. Junius Pera*, then Dictator, a Post which seems to have eminently included all the other Dignities in the Commonwealth. But as that great Magistrate was then distant from *Rome*, commanding the Army against *Hannibal*, *L. Terentius Varro*, first Consul, was ordered to repair to *Rome*, and name a Second Dictator, that might perform the Function of the Censors upon this Occasion; and it was agreed, in order to preserve the ancient Form of Government as much as possible, that the Consul shou'd name none but the oldest of those who had been Censors; so that when *Varro* nominated *M. Fabius Buteo* to be Dictator, he cou'd  
 not



not so properly be said to give the Republick a Dictator, as the first and oldest of the Censors. And to make this new Magistrate sensible that he had nothing of the Dictatorship but the Name, he was expressly forbid the Nomination of a General of the Horse, a Prerogative in a manner inseparable from the Dictatorship, to which that Officer was looked upon as the Lieutenant.

*Livy* relates, that this Dictator, after his Nomination, ascending the *Rostrum*, declared plainly to the Assembly, that he cou'd neither approve of Two Dictators at the same Time, which was never seen in the Republick before, nor of his being made Dictator, without having Liberty to name his General of the Horse; that it was no less extraordinary, to have one single Citizen appointed to do the Business of Two Censors; and that this Dignity, contrary to Custom, shou'd be Twice bestowed upon the same Person. That however, notwithstanding these Irregularities, he wou'd endeavour to behave himself in the Administration of his Office, with all the Caution that the Calamity of the Times, their present Fortune, and the Necessity of Affairs wou'd admit of.

Dec. 3. l. 3.  
c. 7.

This Dictator then nominated One Hundred Seventy Seven Citizens to be Senators, beginning, as we said before, with those that had enjoyed the *Curule* Dignities; and he made a Choice, says *Livy*, which was equally approved

proved of by all the Orders of the Commonwealth; *Centum septuaginta septem cum ingenti approbatione omnium in senatum lectis*, a Proof that this Choice was wholly his own Work. For if the Nomination of the Senators had depended upon the Voices of the Multitude, it would have been ridiculous to have given Praises to the Dictator, for a Choice which was none of his making. And to shew that the Blame, as well as the Praise of these Choices, fell upon the Censors; we read that *Appius Claudius*, and *Plautius*, his Collegue in the Censorship, having filled the vacant Places in the Senate with the Sons of Freedmen; *C. Junius Bulbulcus*, and *Q. Aemilius Barbula*, the Consuls for the following Year, moved with Indignation to see so august an Assembly dishonoured by the Censors with such a Choice, annulled this Election of the Censors; and without any Regard to the last Nomination, caused the Senators to be called anew, according to the ancient Roll, and in the same Order that they stood before the Censorship of *Appius* and *Plautius*. Neither *Fabius Buteo* would have deserved the Praises that were bestowed upon him, nor *Appius Claudius* and *Plautius* the Shame they were loaded with, if the Appointment of the new Senators had depended upon the Votes of the Multitude.

We see therefore that the extraordinary Example of *M. Fabius Buteo*, raised to the Dictatorship, only to fill the Vacancies in the Senate, amounts



amounts to no Consequence against the Prerogative of the Censors to make that Nomination. And if we except this one Instance, and such as happened in the tumultuous Times of the *Gracchi*, and during the Civil Wars; we shall not find, that from the very Foundation of *Rome*, any but the Kings, or the Consuls and Censors, who succeeded them in this part of the Government, ever appointed such Citizens of the Republick as should supply the Vacancies in the Senate.

I excepted the Tribuneship of the *Gracchi* out of my general Proposition; because we are told, that *Caius* the Younger of them brought a great Number of Knights into the Senate; others ascribe this extraordinary Nomination to *Livius Drusus* another Tribune. There are even some who pretend that this is only meant of particular Magistrates to dispense Justice to the People. I shall not enter into this Dispute which wou'd require a Dissertation by it self.

I shall only observe, that *Sylla* and *Marius*, the Leaders in the first Civil War, filled the Senate with their Creatures; that *Julius Caesar* carried his Usurpation yet further, and brought into it not only the Sons of Freemen, but even Barbarians, nay, Quacks too and Soothsayers. That afterwards the *Triumvirs* having exhausted that venerable Body by their cruel Proscriptions, did in their Turn crowd it with their Ruffians; so that after *Augustus* had rid himself of his Two Collegues in the

*Triumvirate*, the Senate was found to consist of above a Thousand Senators, most of them unworthy of that great Title, and who had purchased it with Money, or the Price of Villany. That Prince, now absolute Master of the Empire, resolved to purge that illustrious Society of so many base Members. *Senatorum numerum*, says *Suetonius*, *deformi & incondita turba*, *erant enim supra mille & quidam indignissimi*, *& post necem Caesaris per gratiam & premium allekti*, quos *Orcinos*, others have it, *Abortivos*, *vulgus vocabat*, *ad modum pristinum & splendorum redegit*. *Augustus* having driven these Scoundrels out of the Senate, allowed those Senators that remained to name each of them another. But not being satisfied with this Election, wherein Friendship, Consanguinity, and perhaps, Interest too, had a greater Share than Merit; he made a second Choice, in which he consulted none but *A-*  
*Suet. c. 35.* *grippa*; *duabus lectionibus*, *primâ ipsorum arbitrato*, *quo vir virum legit*; *secundâ suo & Agrippa*: A Proof that this Prince had taken to himself the Authority exercised before by the Censors, the Consuls, and the Kings of *Rome*.

His Successors in the Empire looked upon the Authority of the Censors, as a Part of the imperial Dignity; and *Decius* naming *Valerian* to be Censor, and explaining to him all the Prerogatives and Rights of so eminent an Office: *Valerian*, like an artful Courtier, made



made Answer, that those Prerogatives belonged to no body but the Emperor; *hæc sunt propter quæ Augustum nomen tenetis apud vos censura desedit.*

Trebellius  
Pollio.

Let us now proceed to the second Question proposed, namely, Why the Senate consisting of none but *Patricians* then, that is, as the Author of the *Memorial* asserts in the Four or Five first Ages of the Republick, there should be some *Patricians* that were Senators, and other *Patricians* mere private Men, and not partaking of that Dignity? We are asked, Whether this Distinction arose by Succession or Birthright, or whether the Choice of the Senators depended absolutely upon the Consuls, and afterwards upon the Censors?

In order to answer this Question, we must look back upon what we have related upon *Livy's* Authority, of the Institution of the first Senators. *Romulus*, according to that Historian, created but an Hundred; either, says he, because he thought that Number sufficient, or because he cou'd chuse out but so many that had all the Qualifications requisite in a Senator; *sive quia is numerus satis erat; sive quia soli centum erant qui creari Patres possint.* *Livy* adds, that those Hundred Senators were called *Fathers*, by way of Reverence; and their Children and Descendants *Patricians*; *Patriciique progenies eorum appellati*, the first and clearest Nobility among the

*Romans.* Some Authors relate, that those first Patricians wore Crescents upon their Shoes; others say, the Letter C, to shew that they descended from the Hundred first Senators: These Children and Descendants of those first Senators, quickly multiplied into different Branches of Patricians. At first the Senators, the Priests, and all those who had the chief Inspection over the Affairs of Religion, were chosen out of this Body only. But those Employments, and especially the Dignity of Senator, did not devolve by Right of Succession: It is true, it was requisite to be a Patrician in order to be a Senator; but as the Number of Patricians quickly exceeded that of the Senate, all the Patricians could not possibly be Senators; As we see that all the *Venetian* Nobles are not Senators, tho' a Man cannot be chosen a Senator unless he is a *Venetian* Noble. So at *Rome* it was not sufficient to be a Patrician, to be admitted into the Senate. Birth gave the first of those Qualifications, but it was Merit alone that procured the Second. In order to be admitted into that August Society, a Man must have given eminent Proofs of his Valour in War, and of his Capacity in Business in Times of Peace; the Choice which the Kings made of Senators, proves that his Dignity did not depend upon a lineal and consanguineous Succession; nay, e'er long, and even under the Kings of *Rome*, the Blood of those first Patrician Families



lies was not so scrupulously regarded; and if any Stranger at *Rome*, or any Plebeians, were remarkable for their Merit, the Stranger was first made a Citizen; and then to give either the Stranger or the Plebeian a Right of Entrance into the Senate, they were declared Patricians. Thus *Ancus Martius*, the Fourth King of *Rome*, being very much byass'd in favour of the Merit and Valour of a *Tuscan*, named *Lacumon*, loaded him with Honours, made him first General of the Horse, then Patrician, and afterwards Senator. It was to avoid the open Violation of the Custom of admitting none into the Senate, but the Descendants of the first Hundred Senators, that they gave the Strangers or Plebeians the Name of Patricians; the same *Lacumon* having afterwards attain'd the Crown, with the Name of *Tarquin* the Ancient, by the Favour of the People, did, in order to preserve their Affection, chuse out of that Order a Hundred Senators, which he added to the Senate; and, after the Example of *Ancus Martius*, he endeavour'd to soften the Resentment which this might breed in the Patricians, by first giving that Name to those Plebeians.

*Patricios fecit, says Livy, & in senatum numerum cooptavit.* This King might, indeed, grant those *Plebeians* the Privileges of the *Patricians*, and give them Admission into the Senate; but I don't see how he could possibly make a *Patrician*, that is, how he could declare a Man the Descen-

Descendary of one of the Hundred first Senators, that was not at all related to them, but was of a mean, obscure Family; and whatever Authority may be ascrib'd to the Sovereign Power, it is hard to conceive how a King can at once put a Stop to the vulgar Blood that runs in a *Plebeian's* Veins, and fill them with a new Supply more noble and more pure. And accordingly, as those *Plebeians* were *Patricians* only nominally, and by the Force of a Law, they were call'd, *The added Fathers*, or *Patricians of a meaner Condition*; *Patres conscripti, minorum gentium*: Whereas the Families of the first Hundred Senators, and the true *Patricians*, assumed the Title *majorum gentium*, that is to say, of *Grandeas*, and of the illustrious Families. Which answers to what we call in *France* the highest Nobility, *Optimates*, tho' it is not easy to determine now, whether that Title, which so many People adorn themselves with, consists in a Nobility so ancient that its Origin is unknown, or in actual Dignities which suppose, but do not always prove a true Nobility.

These Distinctions ceas'd among the *Romans* soon after the Expulsion of the Kings. *Dionysius Halycarnassens* tells us, that the *Plebeians* taking the Advantage of *Coriolanus's* Banishment, about the 260th Year of *Rome*, introduced themselves into the Senate, and shared with the *Patricians* the Dignities which before were peculiar to the first Order of the Commonwealth. Other Authors defer the Entrance



of the *Plebeians* into the Senate to the Time of the Creation of the *Decemvirs*, about the 301<sup>st</sup> Year of *Rome*, and only 56 after the Establishment of the Republick. After that Time, all Rank and Nobility went by the Right of Images, that is to say, by the Curule Offices that had been in any Family ; and a Citizen, tho' a *Plebeian* originally, was nevertheless reckon'd very Noble, if his Ancestors had been invested with the chief Dignities of the State.

*Rome*, which at first knew but Two sorts of Citizens, was then divided into Three different Orders, which *Ausonius* comprehends in this Verse,

*Martia Roma triplex, equitatu, plebe, senatu.*

The Knights were originally part of the People, but the most considerable Part of them ; as the Senators were taken out of the Body of the Patricians, and by their Dignity were the Chief of their Order. But when all the Honours of the Republick were become common among all the Citizens, Wealth alone came by degrees to make the whole Distinction ; it was determin'd how much a Citizen should be worth to be inscrib'd in the Roll of Knights, or being a Knight to be qualify'd for Senator. *Senatum gradum, says Seneca, Censu ascendere facit.* The Patricians were included in these Regulations, as well as the other Citizens ; and whatever their Merit might be in other Respects, it was the Goods of Fortune that decided their

their Rank. Such young Patricians as happen'd to be rich, were first placed in the Order of Knights, from whence the Censors afterwards chose out the most worthy to raise them to the Dignity of Senators; and those poor Patricians who had not Wealth enough to be taken into the Order of Knights, or to be admitted into the Senate, remained mingled with the Common People, while they saw Plebeians, because wealthy, adorn'd with the Gold-ring, in quality of Knights; or cloath'd with the Purple Robe, and filling the vacant Places in the Senate; *Senator non es, says Onuphrius Panvinus, ergo eques aut de populo: neque senator, neque eques quamvis Patricius, ergo de populo, ordo enim præterea nullus superest.*

F I N I S.

